

(2010) 06 J&K CK 0017

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 1596 of 2004 and CMP No's. 1643 of 2004 and 313 of 2010

Shafiqa Banu

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 03-06-2010

Acts Referred:

Citation : (2010) 2 JKJ 748

Hon'ble Judges : Jai Pal Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

J.P. Singh, J.—Petitioner was less than 18 years of age when she applied seeking consideration for engagement as Rehbar-e-Taleem for

Primary Schools Khatryar and Patewal Padher in zone Assar of District Doda. Though indicated at serial No. 3 in the Merit Panel, she was denied

selection for not possessing requisite minimum age indicated as such in the Notification issued by Director School Education, Jammu in this behalf.

2. She has filed this Writ Petition questioning Clause 1(a) of the Notification prescribing minimum 18 years age on 01.01.2004 as one of the

essential eligibility conditions for the candidates desirous of seeking selection for engagement as Rehbar-e-Taleem.

3. Referring to Mohammad Altaf Mir v. Bilal Ahmad Mir and Ors. reported as 2009(1) SLJ 253, Petitioner's learned Counsel submits that the

engagement of Rehbar-e-Taleem being not an entry into Government service, prescribing of minimum 18 years of age as on 01.01.2004 by the

Director School Education, Jammu, as it stood indicated in the Jammu and Kashmir Civil Services (Classification, Control and Appeal Rules),

1956 was not permissible and that the Petitioner could not thus be denied consideration for selection.

4. Per contra, the Respondents' learned Counsel submitted that though engagement as Rehbar-e-Taleem was not entry into Government service

yet in terms of the Rehbar-e-Taleem Scheme floated vide Government Order No. 396-Edu of 2000 dated 28.04.2000, the age prescribed by the

Competent Authority, similar to the one as it existed in the Jammu and Kashmir Civil Service (Classification/Control and Appeal Rules), 1956 for

entry into Government service, was not impermissible, in that, it was in line with the Rehbar-e-Taleem Scheme. The Petitioner who did not satisfy

the essential condition regarding the age as on 01.01.2004, was not entitled to selection against the advertised positions of Rehbar-e-Taleem.

5. I have considered the submissions of learned Counsel for the parties and gone through the Rehbar-e-Taleem Scheme.

6. Eligibility conditions for engagement of Rehbar-e-Taleem, as prescribed in the Scheme, are as follows:

i) Rehbar-e-Taleem should be the permanent resident of the State. ii) He or she should belong to the village where there is assessed deficiency of

staff on the confirmation of VLC can draw up the panel from the adjoining village.

iii) He or she possess the minimum qualification of 10+2. iv) The

candidate shall as far as possible fulfill the age qualification as prescribed by the State Government. v) Due consideration shall be given by the

VLCs to the Scheduled Castes and Scheduled Tribes.

7. In terms of Clause (iv) of the Rehbar-e-Taleem Scheme floated vide Government Order No. 396-Edu of 2000 dated 28.04.2000, a candidate

seeking consideration for engagement as Rehbar-e-Taleem should possess the age qualification, as far as possible, as prescribed by the State

Government for entry into the Government service.

8. 18 years minimum age as on 01.01.2004 prescribed by the Director School Education, Jammu as one of the eligibility conditions for those

desirous of seeking consideration for selection as Rehbar-e-Taleem by the Director is, therefore, in accordance with the Scheme. It does not suffer

from the bias of arbitrariness, as projected by the Petitioner's learned Counsel, in that, it is the prerogative of the employer to prescribe eligibility

conditions for its* employees, who do not otherwise possess any enforceable

right as such to suggest their own conditions for service.

9. Although true, it is, that engagement as Rehbar-e-Taleem is not entry into the State Government service yet that, by itself, would not debar the

authorities operating the Rehbar-e-Taleem Scheme, to adopt any Government Rule(s) for prescribing eligibility conditions for those seeking

consideration for engagement under the Scheme, additionally because the Rehbar-e-Taleem Scheme, specifically permits such adaptation.

10. Rejection of Petitioner's candidature by the Respondents on the ground that she was less than 18 years of age as on 01.01.2004 cannot thus

be faulted.

This Petition lacks substance and is, therefore, dismissed.